
TITLE 455 DIVISION OF AGING

Administrative Rules Oversight Committee Notice
1 Year Requirement ([IC 4-22-2-25](#))
LSA Document #06-129

To: The Honorable R. Michael Young, Chairperson
c/o Ms. Sarah Burkman
The Administrative Rules Oversight Committee

From: Kevin Wild, Staff Attorney
Office of General Counsel
Family and Social Services Administration

Re: LSA #06-129, Adult Foster Care

Date: January 4, 2007

Cc: Steve Barnes, LSA
John Davis, General Counsel, FSSA
Steven Smith, Director, Division of Aging

On behalf of the Family and Social Services Administration, Division of Disability, Aging and Rehabilitative Services, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with [IC 4-22-2-25](#), because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The agency published its notice of intent to adopt a rule for the captioned document on May 1, 2006 (29 IR 2588). This rule provides new standards regarding adult foster care service provision and certification standards in the aged and disabled waiver. The statutory requirements for this new rule are greater than those for a typical rule, including, among other things, the allowance of 90 days for review of the proposed rule by the CHOICE Board, public hearings and input from interested parties, and additional review of modifications by the CHOICE Board all before the proposed rule can even be filed. Initial input and discussions prior to submission to the CHOICE Board delayed the rule somewhat, and the complexity of the rule and its interaction with other existing and proposed rules necessitated additional research and discussion within the agency and more than the usual number of intermediate drafts. In order to comply with all of the statutory requirements and to complete the necessary development of the rule, the agency will likely need additional time.

In addition, any rule adopted by the agency must be approved by the Family and Social Services Committee (see [IC 12-8-3](#)), a committee that meets only once per month. It is possible, as has happened with some frequency in the past, that a monthly meeting could occur without a quorum and therefore without any action being taken on an adopted rule. This would mean delayed approval until at least the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to [IC 4-22-2-32](#), the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it may not be possible for the rule to be approved by the governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the governor by December 1, 2007.

This notice setting forth the expected date of approval of LSA #06-129 as December 1, 2007, is being submitted in a timely manner. January 5, 2007, is the two hundred fiftieth day after the date of publication of the notice of intent to adopt a rule.

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